

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

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CARYN LIEBERSON, on behalf of  
herself and all others similarly situated,

Plaintiffs

v.

JOHNSON & JOHNSON  
CONSUMER COMPANIES, INC.,

Defendant

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Civil Action No. 10-6196

**ORDER**

This matter having been opened to the Court on a motion by Defendant Johnson & Johnson Consumer Companies, Inc. (“Defendant”) to dismiss Plaintiff Caryn Lieberman’s (“Plaintiff”) Complaint for failure to state a claim pursuant to Fed. R. Civ. P. 12(b)(6) and to dismiss certain allegations pursuant to Fed. R. Civ. P. 12(b)(1) for lack of standing; the Court having reviewed the motions as well as the opposition and reply filed thereto; it appearing that Defendant moves pursuant to Rule 12(b)(1) only to the extent Plaintiff maintains allegations regarding Defendant’s products that she did not purchase; it appearing that Plaintiff has stated on the record that she is not basing her claims on such products and her claims are only based on Defendant’s Bedtime Bath and Bedtime Lotion products (“Products”); it appearing that Plaintiff repurchased the same Products in 2010 as she did in 2008 despite determining prior that the Products were not effective and there being no change in the labeling between 2008 and 2010; it appearing that Plaintiff fails to make specific allegations as to what statements she heard or read

in connection with Defendant's advertising of the Products that allegedly misled her; the Court having held oral argument on Defendant's motion on June 28, 2012; it appearing that Plaintiff has adequately pled unlawful conduct based on the Product's label, ascertainable loss for the Products purchased in 2008, and causality for the Products purchased in 2008; for the reasons stated on the record; pursuant to Fed. R. Civ. P. 78; and for good cause shown;

**IT IS** on this 28th day of June, 2012,

**ORDERED** that Defendant's motion to dismiss certain claims for lack of standing is **DENIED** as moot;

**ORDERED** that Defendant's motion to dismiss for failure to state a claim as to Products purchased by Plaintiff in 2008 based on allegations regarding Defendant's label is **DENIED**;

**ORDERED** that Plaintiff's New Jersey Consumer Fraud Act claim based upon her purchase of Products in 2010 is **DISMISSED**; and

**ORDERED** that Plaintiff's New Jersey Consumer Fraud Act claim based upon Defendant's allegedly unlawful conduct in connection with its advertising campaign is **DISMISSED** without prejudice.

/s/ Freda L. Wolfson  
Honorable Freda L. Wolfson  
United States District Judge